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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,820	07/23/2003	Jonathan Maynes	CEN0017-01	7804

7590 09/24/2007
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EXAMINER

PADEN, CAROLYN A

ART UNIT	PAPER NUMBER
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1761

MAIL DATE	DELIVERY MODE
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09/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/625,820	Applicant(s) MAYNES, JONATHAN	
	Examiner Carolyn A. Paden	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,8-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,8,15-18,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 9-14 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 & 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umeda (5,833,858) as further evidenced by Merck Index for reasons of record.

Applicant argues that Umeda is directed to acidic phospholipids that do not contain phospholipids. This has been considered but is not persuasive because the rejection is based upon the composition of defatted soybean lecithin of Table 2. Applicant urges that the sugar content of the composition is less than 1%. This has been considered but is not persuasive because the components of Table 2 are substantially phospholipids and would not be expected to contain sugar.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Umeda as further evidenced by Merck Index as

applied to claims 1-2 above, and further in view of Losch for reasons of record used in rejecting claims 1, 2 and 4 in the last office action.

Applicant argues that Losch has a different composition than Umeda. This has been considered but is not persuasive. Losch is relied upon to show that granulated lecithin is known in the art. The fact that the components in Losch are different does not take away the teaching of granulated lecithin that is relied upon in the reference.

Claims 8, 15-18, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pardum in view of Umeda as further evidenced by Merck for reasons of record.

Applicant argues that Pardum prepares a phosphatide with less than 1% sugar. No difference is seen between the sugar content of Pardum and the sugar content of the claims. Applicant argues that the Pardum resin in example 3 is not applicants' invention. The Pardum residue is made by the same basic process as that described in the claims. The phosphatidyl choline content of the lecithin residue falls within the range of the claims. The Pardum process provides for up to 30% water in the alcohol for extraction. So even though the amount of phosphatidyl ethanolamine and phosphatidyl inositol is different from that of the claims, one of ordinary skill in the art would

expect the lecithin composition to fall within the range of the claims because the process is an obvious variant of the Pardum process. No unobvious or unexpected result is seen between the extraction process of Pardum and the extraction process of the claims.

Claims 9-14 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks, can be reached on (571) 272-1401 or by dialing 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be

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obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CAROLYN PADEN 9-19-07
PRIMARY EXAMINER 1761